

**AN ORDINANCE
BY COUNCILMEMBER CLAIR MULLER
AS SUBSTITUTED BY CITY UTILITIES COMMITTEE**

01-O-1315

AN ORDINANCE TO AMEND ORDINANCE NO. 98-O-0628 TO ABANDON A PORTION OF HIRSCH STREET, N.W., BETWEEN FOURTEENTH STREET, N.W., AND ETHEL STREET, N.W., LYING AND BEING IN LAND LOT 149 OF THE 17TH DISTRICT, FULTON COUNTY, GEORGIA, TO AUTHORIZE THE ISSUANCE OF A QUIT-CLAIM DEED TO THE AL-FAROOQ MASJID MOSQUE IN EXCHANGE FOR AN OPTION EXERCISABLE BY THE CITY TO ACQUIRE ADDITIONAL RIGHT-OF-WAY; AND FOR OTHER PURPOSES

WHEREAS, on August 3, 1998, the Council adopted Ordinance No. 98-O-0628, an ordinance authorizing the abandonment by the City of Atlanta ("City") of Hirsch Street, between Fourteenth Street, N.W., and Ethel Street, N.W., and directing the appraisal of the fair market value of the right-of-way area in fee simple, to be paid as consideration for the issuance of a quit-claim deed; and

WHEREAS, the property surrounding the right-of-way (the "Mosque Property"), which is owned and operated by the Al-Farooq Masjid Mosque (the "Mosque"), was re-zoned on April 12, 2000 for a proposed Mosque expansion, pursuant to Ordinance No. 99-O-2096, and made conditional on the Mosque providing additional building setback on the portion of the Mosque Property adjacent to Snyder Street, in anticipation by the City of the future widening of that street to allow for two-way traffic and parallel parking on both sides; and

WHEREAS, upon learning that the value of the right-of-way area had been appraised by the City at \$242,000, the Mosque sought a re-determination of the property interests to be conveyed in the proposed Hirsch Street abandonment; and

WHEREAS, in lieu of paying the City's appraised value of Hirsch Street, the Mosque is willing to convey to the City the additional building setback reserved for the future widening of Snyder Street, provided that the Mosque can maintain ownership and control of such reserved building setback until such time as the widening of Snyder Street is actually initiated by the City; and

WHEREAS, the City has determined that it is desirable and in its best interests to convey Hirsch Street by Quitclaim Deed to the Mosque in exchange for the Mosque's execution and delivery to the City of an Option Agreement providing that, at the time the City desires to widen Snyder Street, the City may exercise the option and obtain conveyance to it by the Mosque of the additional property required for the widening;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1.

That, pursuant to Section 2-1578 (d) of the Code of Ordinances existing on the enactment date of Ordinance No. 98-O-0628, the following negotiated transaction between the City and the Mosque concerning the abandonment of Hirsch Street is approved:

- (a) The City will execute and deliver to the Mosque a Quitclaim Deed conveying the City's interest in the portion of Hirsch Street previously abandoned;
- (b) In exchange and as consideration for the City's delivery of the Quitclaim Deed to it, the Mosque will execute and deliver to the City an Option Agreement granting the City an option to acquire a right-of-way easement over the additional building setback within the Mosque Property more particularly described in the site plan referenced in Ordinance No. 99-O-2096 as the "building setback shown with anticipation of future widening of Snyder Street to allow for two-way traffic and parallel parking on both sides", which site plan is incorporated into this Ordinance by reference for the sole purpose of determining the metes and bounds of the required setback ("Option Property");
- (c) The Option Agreement will include the following conditions:
 - (i) It will be exercisable only at such time as the widening of Snyder Street is listed among the City's Capital Improvement Projects, and the City has appropriated funds for the widening of Snyder Street, and the Commissioner of Public Works or his or her successor for undertaking street-widening projects has initiated a formal, written directive for the commencement of such widening project; and
 - (ii) that the City may exercise the Option through the City's Director of its Bureau of Purchasing and Real Estate delivering to the Mosque a Notice of Exercise of Option; and
 - (iii) that attached to the Notice of Exercise of Option will be documentation evidencing that the widening of Snyder Street is, at the time of the notice, listed among the City's Capital Improvement Projects and that funds for that widening have been appropriated by the City, and that the Commissioner of Public Works or his or her successor for undertaking street-widening projects has initiated a formal, written directive for the commencement of such widening project; and
 - (iv) that the additional consideration for the exercise of the option to acquire the Option Property will be \$10, to be paid by the City to the Mosque

contemporaneously with the City's delivery to the Mosque of its Notice of Exercise of Option; and

(v) that within 45 days of the date of the Notice of Exercise of Option, the Mosque will execute and deliver to the City a Quitclaim Deed conveying the Option Property to the City; and

(vi) that the option will be irrevocable for the period of 20 years following the date of its execution and delivery, but will expire if not exercised within 20 years following the date of its execution and delivery to the City.

Section 2. That the Mayor is authorized to execute and deliver a Quitclaim Deed to the Mosque conveying the abandoned portion of Hirsch Street and the City's Director of its Bureau of Purchasing and Real Estate is authorized to execute the Option Agreement and subsequently to exercise the option upon the terms and conditions authorized by the Option Agreement by executing and delivering to the Mosque a Notice of Exercise of Option.

Section 3. That the City Attorney is directed to prepare a Quitclaim Deed and Option Agreement for execution by the Mayor and Purchasing Director, respectively, containing terms and conditions appropriate and/or legally required for this transaction, to be approved by the City Attorney as to form.

Section 4. That the Quitclaim Deed and Option Agreement will not become binding upon the City and City will incur no liability under them until the Mayor and Director of Purchasing, respectively, have executed the appropriate document, each has been attested to by the Municipal Clerk, and delivered to the Mosque.

Section 5. That any provisions contained in the City's Code of Ordinances, presently in force and effect, are waived to the extent of any conflict with this Ordinance, and further provided that, except as amended by this Ordinance, the remainder of Ordinance No. 98-O-0628 continues in full force and effect.

A true copy,


Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

NOV 19, 2001
NOV 27, 2001



MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into as of the ____ day of November, 2001 by and between AL-FAROOQ MASJID OF ATLANTA (hereinafter referred to as the "Mosque") and the HOME PARK COMMUNITY IMPROVEMENT ASSOCIATION, INC., a Georgia non-profit corporation (hereinafter referred to as "HPCIA").

RECITALS:

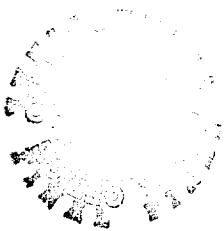
WHEREAS, the Mosque owns and operates a house of worship, center of cultural heritage and educational facility at 442 Fourteenth Street, Atlanta, Georgia 30318 (said location hereinafter referred to as the "Property"); and

WHEREAS, the Mosque has developed plans for the expansion of its facilities on the Property to enhance its cultural programs, and educational and recreational opportunities for the community it serves, and has obtained an amendment of the City of Atlanta's Zoning Ordinance to permit such expansion; and

WHEREAS, HPCIA serves the neighborhood in which the Property is located, and wishes the expansion of the Mosque's facilities to conform to the Home Park Master Plan for the future development, zoning, and use of the neighborhood; to provide that planned green space be made available to members of the Home Park neighborhood; and to include neighborhood access to such green space from Ethel Street; and

WHEREAS, the Mosque is willing to make such commitments to HPCIA provided that the City of Atlanta adopts certain legislation waiving compensation for the abandonment of Hirsch Street.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto set forth their mutual representations and agreements, as follows:



1.

The parties agree that the purpose of this MOU is

- (a) to effectuate the Mosque's agreement to make accessible to the neighborhood's use the area designed and designated as the multi-purpose field and picnic area on the Site Development Plans approved by the City on August 9, 2000 so long as such use does not interfere with the Mosque's use of such area nor violate the Mosque's reasonable rules and regulations for such use;
- (b) to effectuate the Mosque's agreement to make accessible to pedestrians from Ethel Street the area designed and designated as the multi-purpose field and picnic area on the Site Development Plans approved by the City on August 9, 2000, by maintaining open space of a minimum of eight feet in width, from the multi-purpose field and picnic area to Ethel Street, which will be usable by pedestrians to reach such area;
- (c) to obtain HPCIA's agreement and support for the City of Atlanta's approval of the Site Development Plans for Al-Farooq Masjid of Atlanta prepared by Gordon Story & Associates Sheets 1-8, 7/20/00 revision #4 8/2/01 (hereinafter referred to as the "Site Development Plans"), whether such approval requires legislation enacted by the Atlanta City Council or administrative approval.

2.

The Mosque hereby represents and agrees that its expansion of its facilities on the Property will substantially conform to the Site Development Plans, subject to approval by the City of Atlanta and to subsequent amendments that may be required by the City of Atlanta. HPCIA hereby represents and agrees that it approves said Site Development Plans, that the Mosque is authorized to state to the City of Atlanta or any other public body having jurisdiction over its Property or the expansion project that HPCIA approves said Site Development Plans, and that if called upon to do so, HPCIA will state publicly on behalf of the Home Park neighborhood and residents, that it approves said Site Development Plans. Both parties agree that the Mosque's obligation in this regard is subject to such amendments and requirements as the City of Atlanta may impose as conditions of the issuance of a building permit and related permits.

3.

The Mosque agrees to make accessible to residents of the neighborhood the area designed and designated as the multi-purpose field and picnic area on the plans approved by the City on August 9, 2000, subject to the Mosque's reasonable rules and regulations, and provided that such use by neighborhood residents does not interfere with any scheduled use by the Mosque, its members, or students.

4.

The Mosque further agrees to make accessible to pedestrians from Ethel Street the area designed and designated as the multi-purpose field and picnic area on the plans approved by the City on August 9, 2000 by maintaining open space from the multi-purpose field and picnic area to Ethel Street which is a minimum of eight feet wide and usable by pedestrians to reach such area.

5.

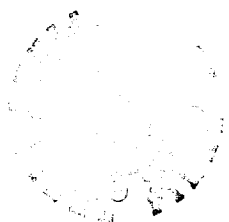
The terms and obligations stated herein shall expire twenty years from the day and year first above written, provided no obligation on the part of the Mosque shall arise, and that this Memorandum of Understanding shall be of no force or effect, unless or until HPCIA executes this MOU and further, unless or until the legislation designated by the City of Atlanta as 01-O-1315, to authorize the issuance of a quit-claim deed to the Mosque in exchange for an option exercisable by the City, becomes law.

6.

The Mosque hereby represents, warrants and covenants that it is a corporation duly organized, validly existing and in good standing under the laws of the State of Georgia, that the execution, delivery and performance of this MOU has been duly and validly authorized and approved by all necessary action on its behalf, and that the Mosque has the power and authority, corporate or otherwise, to execute and deliver this MOU, to perform the obligations hereunder and to consummate the transactions contemplated herein.

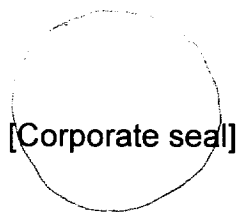
7.

HPCIA hereby represents, warrants and covenants that it is a corporation duly organized, validly existing and in good standing under the laws of the State of Georgia, that the execution, delivery and performance of this MOU has been duly and validly authorized and approved by all necessary action on its behalf, and that HPCIA has the power and authority, corporate or otherwise, to execute and deliver this MOU, to perform the obligations hereunder and to consummate the transactions contemplated herein.



IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the day and year first above written.

AL-FAROOQ MASJID OF ATLANTA



[Corporate seal]

By: *[Signature]* Director.
Title

HOME PARK COMMUNITY IMPROVEMENT ASSOCIATION

[Corporate seal]

By: *Timothy State (S)*
Title *President*

RCS# 3282
11/19/01
3:15 PM

Atlanta City Council

Regular Session

01-O-1315 Amend 98-O-0628; abandon portions of
 Hirsch St., N.W. & Ethel St.
 ADOPT ON SUB

YEAS: 9
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 4

Y McCarty	B Dorsey	Y Moore	Y Thomas
B Starnes	Y Wooldard	Y Martin	Y Emmons
B Bond	B Morris	Y Maddox	Y Alexander
Y Winslow	NV Muller	NV Boazman	NV Pitts

01-C-1315

(Do Not Write Above This Line)

AN ORDINANCE

BY COUNCILMEMBER MULLER

AN ORDINANCE TO AMEND 98-0-0628 TO ABANDON A PORTION OF HIRSCH STREET, NW, AN UNOPENED RIGHT-OF-WAY, BETWEEN FOURTEENTH STREET, NW, AND ETHEL STREET, NW, LYING AND BEING IN LAND LOT 149 OF THE 17TH DISTRICT, FULTON COUNTY, GEORGIA, AS AS TO AUTHORIZE THE ISSUANCE OF A QUIT-CLAIM DEED FOR THE CONSIDERATION OF TEN DOLLARS, PURSUANT TO CODE SECTION 2-1578; AND FOR OTHER PURPOSES.

9/4/01 - Referred back to C.U.C. Without Objection

ADOPTED BY
NOV 19 2001

COUNCIL
SUBSTITUTE

- ☐ CONSENT REFER
☒ REGULAR REPORT REFER 9/4/01
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER
☒ PERSONAL PAPER REFER

Date Referred

8/6/01

Referred To:

City Utilities

Date Referred

9/4/01

Referred To:

City Utilities

Date Referred

Referred To:

First Reading

Committee _____
 Date _____
 Chair _____
 Referred to _____

Committee

City Utilities

Date

8-14-01

Chair

Clair Muller

Action:

Fav, Adv, Hold (see rev. side)

Other:

No Recommendation

Members

D. Muller, J. B. G. S.

J. B. G. S.

J. B. G. S.

Refer To

Committee

City Utilities

Date

11/13/01

Chair

Clair Muller

Action:

Fav, Adv, Hold (see rev. side)

Other:

ON SUBSTITUTE (2)

Members

J. B. G. S.

J. B. G. S.

J. B. G. S.

Refer To

Committee

City Utilities

Date

9-11-01

Chair

9-25-01

Action:

Fav, Adv, Hold (see rev. side)

Other:

ON SUBSTITUTE

Members

J. B. G. S.

J. B. G. S.

J. B. G. S.

Refer To

Committee

City Utilities

Date

11/13/01

Chair

Clair Muller

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

J. B. G. S.

J. B. G. S.

J. B. G. S.

Refer To

FINAL COUNCIL ACTION

- ☒ 2nd ☐ 1st & 2nd ☐ 3rd
 Readings
☐ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

CERTIFIED
 NOV 19 2001
 ATLANTA CITY COUNCIL PRESIDENT
 Robert A. Parker

CERTIFIED
 NOV 19 2001
 Paul D. Johnson
 MUNICIPAL CLERK

MAYOR'S ACTION

CERTIFIED
 NOV 27 2001
 Mayor's Signature